

ATTACHMENT Q
BASIS FOR INTERFERENCE UNDER 41.202(a)(3)

<u>COUNT 1</u>	<u>Applicant's CLAIM 12</u>	<u>Basis For Interference</u>	<u>'484 CLAIM 1</u>	<u>Basis For Interference</u>
<p>Apparatus comprising circuitry</p> <p>for creating a non-excitatory electric potential between at least two points located in the vicinity of the muscle, and</p> <p>comprising circuitry for controlling the start time and/or duration of the electric current flowing between said at least two points which is synchronized to heart activity,</p> <p>said circuitry not operating at every beat of the heart.</p>	<p>Apparatus comprising circuitry</p> <p>for creating a non-excitatory electric potential between at least two points located in the vicinity of a muscle,</p> <p>comprising circuitry for controlling the start time and/or the duration of the electric potential generated between said at least two points which is synchronized to heart activity,</p> <p>said non-excitatory electric potential being a first phase of a biphasic pacing pulse.</p>	<p>Differences between the count and the claim are obvious.</p>	<p>Apparatus comprising circuitry</p> <p>for creating a non-excitatory electric potential between at least two points located in the vicinity of a muscle,</p> <p>comprising circuitry for controlling the start time and/or the duration of the electric potential generated between said at least two points which is synchronized to heart activity,</p> <p>said circuitry not operating at every beat of the heart.</p>	<p>Count anticipates the claim.</p>

<u>COUNT 2</u>	<u>Applicant's CLAIM 13</u>	<u>Basis For Interference</u>	<u>'484 CLAIM 2</u>	<u>Basis For Interference</u>
<p>Implantable apparatus comprising</p> <p>circuitry for causing a non-excitatory electric current to flow between at least two points located in the vicinity of a muscle and</p> <p>circuitry for controlling the start time and/or duration of the electric current,</p> <p>wherein said circuitry for controlling does not operate at every beat of the heart.</p>	<p>Implantable apparatus comprising</p> <p>circuitry for causing a non-excitatory electric current to flow between at least two points located in the vicinity of a muscle and</p> <p>circuitry for controlling the start time and/or duration of the electric current,</p> <p>wherein said non-excitatory electric current is a first phase of a bi-phasic pacing pulse.</p>	<p>Differences between the count and the claim are obvious.</p>	<p>Implantable apparatus comprising</p> <p>circuitry for causing a non-excitatory electric current to flow between at least two points located in the vicinity of a muscle and</p> <p>circuitry for controlling the start time and/or duration of the electric current,</p> <p>wherein said circuitry for controlling does not operate at every beat of the heart.</p>	<p>Count anticipates the claim.</p>

<u>COUNT 3</u>	<u>Applicant's CLAIM 15</u>	<u>Basis For Interference</u>	<u>'484 CLAIM 5</u>	<u>Basis For Interference</u>
<p>Apparatus, comprising:</p> <p>means for creating an electric potential between at least two points located in the vicinity of the muscle;</p> <p>means for causing a non-excitatory DC electric current to flow between said at least two point, if desired; and</p> <p>means for controlling the start time, duration and magnitude of the non-excitatory electric potential and/or of the non-excitatory electric current flowing between said at least two points.</p>	<p>Apparatus for varying conduction velocity of a muscle, comprising:</p> <p>means for creating an electric potential between at least two points located in the vicinity of the muscle;</p> <p>means for causing a non-excitatory DC electric current to flow between said at least two points, if desired; and</p> <p>means for controlling the start time, duration and magnitude of the non-excitatory electric potential and/or of the non-excitatory electric current flowing between said at least two points.</p>	<p>Differences between the count and the claim are obvious.</p>	<p>Apparatus for reducing the contraction force of a muscle, comprising:</p> <p>means for creating an electric potential between at least two points located in the vicinity of the muscle;</p> <p>means for causing a non-excitatory DC electric current to flow between said at least two point, if desired; and</p> <p>means for controlling the start time, duration and magnitude of the non-excitatory electric potential and/or of the non-excitatory electric current flowing between said at least two points.</p>	<p>Differences between the count and the claim are obvious.</p>

Support for "means" limitations in the Application:

Pacemaker electronics needed to practice the method of the present invention are well known to those skilled in the art. Current pacemaker electronics are capable of being programmed to deliver a variety of pulses, including those disclosed herein. (Application, ¶0025.) This text is also disclosed in the priority chain as follows: in the '235 Patent at Col. 4, lines 28-32, in the '019 Patent at Col. 4, lines 25-19, and in the '506 Patent at Col. 4, lines 22-26.

Support for “means” limitations in the ‘484 Patent:

The invention relates to apparatus comprising circuitry for creating a non-excitatory electric potential between at least two points located in the vicinity of a muscle. ‘484 Patent, Col. 3, lines 11-13.)

According to one embodiment of the invention, the apparatus comprises circuitry for controlling the start time of the electric potential generated between said at least two points. According to another preferred embodiment of the invention the apparatus comprises circuitry for controlling the duration of the electric potential generated between said at least two points. According to yet another preferred embodiment of the invention the apparatus comprises circuitry for controlling the magnitude of the electric potential generated between said at least two points. In another aspect, the invention is directed to apparatus comprising circuitry for causing a non-excitatory electric current to flow between at least two points located in the vicinity of a muscle. (‘484 Patent, Col. 3, lines 41-54.)

Of course, the apparatus is only schematically shown, for the sake of brevity. And the skilled person will easily be able to devise many different kinds of apparatus suitable to supply the signal needed in carrying out the invention. (‘484 Patent, Col. 15, lines 8-11)

<u>COUNT 4</u>	<u>Applicant's CLAIM 17</u>	<u>Basis For Interference</u>	<u>'484 CLAIM 7</u>	<u>Basis For Interference</u>
<p>A method for varying a contraction force of a muscle,</p> <p>comprising creating a non-excitatory electric potential between at least two points located in the vicinity of the muscle, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric potential created between said at least two points.</p>	<p>A method for varying conduction velocity of a muscle,</p> <p>comprising creating a non-excitatory electric potential between at least two points located in the vicinity of the muscle, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric potential created between said at least two points.</p>	<p>The count anticipates the claim.</p>	<p>A method for reducing the contraction force of a muscle,</p> <p>comprising creating a non-excitatory electric potential between at least two points located in the vicinity of the muscle, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric potential created between said at least two points.</p>	<p>Differences between the count and the claim are obvious.</p>

<u>COUNT 5</u>	<u>Applicant's CLAIM 18</u>	<u>Basis For Interference</u>	<u>'484 CLAIM 8</u>	<u>Basis For Interference</u>
<p>A method for varying the contraction force of a muscle, comprising</p> <p>causing a non-excitatory electric current to flow between at least two points located in the vicinity of the muscle, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric current flowing between said at least two points.</p>	<p>A method for varying conduction velocity of a muscle, comprising</p> <p>causing a non-excitatory electric current to flow between at least two points located in the vicinity of the muscle as a first phase of a bi-phasic stimulation pulse, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric current flowing between said at least two points.</p>	<p>Differences between the count and the claim are obvious.</p>	<p>A method for reducing the contraction force of a muscle, comprising</p> <p>causing a non-excitatory electric current to flow between at least two points located in the vicinity of the muscle, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric current flowing between said at least two points.</p>	<p>The count anticipates the claim.</p>

<u>COUNT 6</u>	<u>Applicant's CLAIM 22</u>	<u>Basis For Interference</u>	<u>'484 CLAIM 12</u>	<u>Basis For Interference</u>
<p>A method for varying contraction force of a muscle, comprising</p> <p>causing a non-excitatory electric current to flow between at least two points located in the vicinity of the muscle, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric current flowing between said at least two points,</p> <p>wherein the non-excitatory electric current is a DC current; and</p> <p>wherein the flow of the non-excitatory DC electric current is synchronized to heart activity.</p>	<p>A method for varying conduction velocity of a muscle, comprising</p> <p>causing a non-excitatory electric current to flow between at least two points located in the vicinity of the muscle as a first phase of a bi-phasic stimulation pulse, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric current flowing between said at least two points;</p> <p>wherein the non-excitatory electric current is a DC current; and</p> <p>wherein the flow of the non-excitatory DC electric current is synchronized to heart activity.</p>	<p>Differences between the count and the claim are obvious.</p>	<p>A method for reducing the contraction force of a muscle, comprising</p> <p>causing a non-excitatory electric current to flow between at least two points located in the vicinity of the muscle, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric current flowing between said at least two points;</p> <p>wherein the non-excitatory electric current is a DC current; and</p> <p>wherein the flow of the non-excitatory DC electric current is synchronized to heart activity.</p>	<p>Differences between the count and the claim are obvious.</p>

<u>COUNT 7</u>	<u>Applicant's CLAIM 22</u>	<u>Basis For Interference</u>	<u>'484 CLAIM 13</u>	<u>Basis For Interference</u>
<p>A method for varying contraction force of a muscle, comprising</p> <p>causing a non-excitatory electric current to flow between at least two points located in the vicinity of the muscle, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric current flowing between said at least two points,</p> <p>wherein the non-excitatory electric current is a DC current;</p> <p>wherein the flow of the non-excitatory DC electric current is synchronized to heart activity; and</p> <p>wherein the non-excitatory DC</p>	<p>A method for varying conduction velocity of a muscle, comprising</p> <p>causing a non-excitatory electric current to flow between at least two points located in the vicinity of the muscle as a first phase of a bi-phasic stimulation pulse, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric current flowing between said at least two points;</p> <p>wherein the non-excitatory electric current is a DC current; and</p> <p>wherein the flow of the non-excitatory DC electric current is synchronized to heart activity.</p>	<p>Differences between the count and the claim are obvious.</p>	<p>A method for reducing the contraction force of a muscle, comprising</p> <p>causing a non-excitatory electric current to flow between at least two points located in the vicinity of the muscle, and</p> <p>controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric current flowing between said at least two points;</p> <p>wherein the non-excitatory electric current is a DC current;</p> <p>wherein the flow of the non-excitatory DC electric current is synchronized to heart activity; and</p> <p>wherein the non-excitatory DC</p>	<p>The count anticipates the claim.</p>

REQUEST FOR INTERFERENCE**PATENT APPLICATION****Appln. No. 10/053,750**

electric current flows not at every beat of the heart.			electric current flows not at every beat of the heart.	
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<u>COUNT 8</u>	<u>Applicant's CLAIM 47</u>	<u>Basis For Interference</u>	<u>'484 CLAIM 40</u>	<u>Basis For Interference</u>
<p>A method for varying the contraction force of a muscle, comprising:</p> <p>providing means for creating an electric potential between at least two points located in the vicinity of the muscle;</p> <p>providing means for causing a non-excitatory DC electric current to flow between said at least two point;</p> <p>providing means for switching the current polarity between said at least two points; and</p> <p>providing means for controlling the start time, duration and magnitude of the electric current flowing between said at least two points.</p>	<p>A method for varying conduction velocity of a muscle, comprising:</p> <p>providing means for creating an electric potential between at least two points located in the vicinity of the muscle;</p> <p>providing means for causing a non-excitatory DC electric current to flow between said at least two point;</p> <p>providing means for switching the current polarity between said at least two points; and</p> <p>providing means for controlling the start time, duration and magnitude of the electric current flowing between said at least two points.</p>	<p>Differences between the count and the claim are obvious.</p>	<p>A method for reducing the contraction force of a muscle, comprising:</p> <p>providing means for creating an electric potential between at least two points located in the vicinity of the muscle;</p> <p>providing means for causing a non-excitatory DC electric current to flow between said at least two point;</p> <p>providing means for switching the current polarity between said at least two points; and</p> <p>providing means for controlling the start time, duration and magnitude of the electric current flowing between said at least two points.</p>	<p>The count anticipates the claim.</p>

Support for "means" limitations in the Application:

Pacemaker electronics needed to practice the method of the present invention are well known to those skilled in the art. Current pacemaker electronics are capable of being programmed to deliver a variety of pulses, including those disclosed herein. (Application, ¶0025.) This text is also

disclosed in the priority chain as follows: in the '235 Patent at Col. 4, lines 28-32, in the '019 Patent at Col. 4, lines 25-19, and in the '506 Patent at Col. 4, lines 22-26.

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According to one embodiment of the invention, the apparatus comprises circuitry for controlling the start time of the electric potential generated between said at least two points. According to another preferred embodiment of the invention the apparatus comprises circuitry for controlling the duration of the electric potential generated between said at least two points. According to yet another preferred embodiment of the invention the apparatus comprises circuitry for controlling the magnitude of the electric potential generated between said at least two points. In another aspect, the invention is directed to apparatus comprising circuitry for causing a non-excitatory electric current to flow between at least two points located in the vicinity of a muscle. ('484 Patent, Col. 3, lines 41-54.)

In yet another aspect, the invention is directed to a method for reducing the contraction force of a muscle, comprising creating a non-excitatory electric potential between at least two points located in the vicinity of the muscle, and controlling one or more of the parameters consisting of start time, duration, magnitude and polarity of the non-excitatory electric potential created between said at least two points. ('484 Patent, Col. 4, line 66 through Col. 5, line 5.)

Of course, the apparatus is only schematically shown, for the sake of brevity. And the skilled person will easily be able to devise many different kinds of apparatus suitable to supply the signal needed in carrying out the invention. ('484 Patent, Col. 15, lines 8-11.)